

State Board of Equalization

OPERATIONS MEMO

For Public Release

No : 1145

Date : May 4, 2007

SUBJECT: Assembly Bill 990 (AB 990) – Information Sharing between California Municipalities and the Board of Equalization for the Purposes of Sales Tax Registration and Local Tax Reallocation.

I. PURPOSE

This Operations Memo provides guidelines and procedures for the implementation of Revenue and Taxation Code (RTC) sections 6066.3 and 6066.4, enacted by Assembly Bill 990 (Stats. 1999, Ch. 908). Section 6066.3 requires the Board of Equalization (Board) to issue a finding (determination) for the purposes of sales tax registration, or local tax reallocation, in response to requests from California cities and counties (municipalities). “Determination,” as it is referred to in section 6066.3 and used in this Operations Memo, means the Board’s finding regarding alleged unregistered sellers, or incorrect tax area codes (TAC) resulting in misallocation of local tax. It is different from and should not be taken to mean a “notice of determination” as described in RTC section 6486. The procedures outlined in this memo to implement the provisions of RTC sections 6066.3 and 6066.4 will be collectively referred to as the AB 990 process.

II. BACKGROUND

AB 990 provides municipalities with the statutory authority to obtain seller’s permit information from sellers desiring to engage in business in their jurisdictions. This enabled the municipalities and the Board to form a partnership for the purpose of identifying and reporting unregistered sellers and to correct any misallocation of local tax. To implement the provisions of AB 990, a Memorandum of Understanding (MOU) was signed by the Board, the California State Association of Counties, and the League of California Cities. Under the terms of the MOU, the parties agreed to the use of email and an approved Microsoft Access program by the municipalities to transfer their requests to the Board for the issuance of new permits (new registrations) and the reallocation of local tax. Under the MOU, participating municipalities will compare electronic data captured in their licensing activities with seller’s permit information in a statewide registration CD-ROM provided to them each month by the Board. Select records regarding non-registered businesses, questionable TACs, or business addresses, can be transferred by the municipalities to a template provided by the Board, and then transmitted to the local Board district office by means of an email attachment (submittal).

The Board is required to provide the municipalities with a receipt of the notification and issue a determination for each record in the municipalities’ submittals. If a determination can be made based on the information submitted by the municipality, the determination shall be issued within

30 days of receipt of the information. If additional information is required before a determination can be made, an interim report shall be sent to the municipality within 30 days of receipt of the information and a determination must be sent within 120 days of receipt of the information.

III. DISTRICT OFFICE PROCEDURES

District offices will designate an AB 990 Coordinator and a backup to act as liaisons between the municipalities and the Board regarding the AB 990 requests from the municipalities. Municipalities choosing to participate in the AB 990 program will contact the District Principal Compliance Supervisor or a designee at the Board district office having jurisdiction over the municipality's area and provide information regarding their AB 990 contact person. The information should include the contact person's email address, phone number, and the municipality's mailing address. Contact person information and municipality mailing addresses for all participating municipalities in the district's jurisdiction will be maintained in the district office. The AB 990 Coordinator will communicate the municipalities' mailing addresses to the Media Handling Unit of the Technology Services Division (TSD) in headquarters. The communication will be in the form of an email to **TSD-PFP** advising the unit to add the municipality to its statewide registration CD mailing list.

The District Principal Compliance Supervisor or designee will ensure that the AB 990 Coordinator establishes contact with the municipality's AB 990 contact person and provides the contact person with a copy of the Board's proprietary AB 990 Process CD and instructions for its use. The AB 990 Process CD is installed on a computer in the municipality's office and allows registration information to be transferred to a template and submitted electronically to the Board's district office. For future communication, the AB 990 Coordinator will also provide his/her name, email address, and phone number to the municipality's AB 990 contact person, as well as the email address of the respective district office AB 990 mailbox to which the municipality's AB 990 requests will be sent. The AB 990 Coordinator and the municipality AB 990 contact person will establish a password to encode the email attachment files sent by the municipality. Incoming AB 990 submittals can only be opened by entering the established password.

A. AB 990 Database Program

The **AB 990 Database Program** will be installed on one or more computers in all district offices as well as in the Fresno Branch Office. The program will be used to process AB 990 requests from participating municipalities. In addition to the Input Program issued to participating municipalities, the AB 990 Database Program has the following three components:

1. **Assignment Program** (dbAssigner.mdb) used by the AB 990 Coordinator to import the municipalities' submittals into the program for assignment to a user in the district office, and then sending the submittals to a central database on the network server.

2. **End User Program** (dbEndUser.mdb) used by district office staff to retrieve the AB 990 files from the network server and allows staff to work the assignments resulting from the municipalities' submittals.
3. The **Central Database** residing on the network server. This is a database of all submittals by municipalities statewide, including records of district office activity on assignments based on these submittals.

In case of problems with the AB 990 Database Program, the AB 990 Coordinators should work through their district LAN Coordinator and open a service desk ticket with TSD.

B. AB 990 Mailbox

The district office LAN Coordinators or the AB 990 Coordinators will set up an AB 990 mailbox with rules for incoming emails on the designated AB 990 computer in their respective district office and the Fresno branch office. The AB 990 mailbox address will have the prefix "990." followed by the city in which the district office is located, and then followed by "@boe.ca.gov." For example, the AB 990 email address for the Van Nuys district office will be 990.Vannuys@boe.ca.gov. The district office AB 990 Coordinator or the LAN Coordinator will add the email addresses of participating municipalities in the district's jurisdiction to the AB 990 mailbox. Municipalities will email their requests for new registrations or local tax reallocations to the AB 990 email address of the Board district office having jurisdiction over their area.

Rules will be entered in the AB 990 mailbox to generate a preliminary auto-reply to all incoming emails, advising the sender that they will receive another email shortly. Rules will also be entered in the mailbox to automatically match email addresses of incoming emails against the list of email addresses in the mailbox to confirm that the email is from 1) a participating municipality, and 2) has a valid attachment. If an incoming email satisfies these two conditions, Outlook will send an automatic confirmation reply to the municipality. The automatic confirmation reply will serve as an acknowledgement of receipt of the submittal and will provide a date from which the 30-day AB 990 determination timeline is calculated. If either of the two conditions are not met, an automated rejection notice will be mailed to the sender, advising them to contact the district office for further assistance. The auto-reply feature in Outlook for the AB 990 mailbox must be enabled by having the "Out of Office Assistant" on at all times.

In case of a problem with the incoming AB 990 emails and attachments, the AB 990 Coordinator will seek the assistance of the district LAN Coordinator. If the problem cannot be resolved at the district level, the district LAN Coordinator will open a service desk ticket with TSD.

C. Attachment Filenames and Passwords

The municipalities will determine the attachment filename when sending the request file. It is recommended that the AB 990 Coordinator communicate with each of the participating municipalities to establish a pattern for filenames. The recommended

filename is the name of the municipality plus the date the file was sent. For example, a filename from the City of Stockton, sent on June 1, 2007 would be "Stockton_2007_06_01.mdb". This pattern will create a unique name for each submittal and leave an audit trail to track the attachment. If the municipality does not name the files in a logical manner, the AB 990 Coordinator should rename them so that the submittal can be identified to a particular municipality and to a particular date. To protect the confidentiality of taxpayer information, as noted earlier, the attachment file will be password coded, with the municipality entering the password. The password can be changed any time by mutual agreement, if the need arises.

D. Processing AB 990 Submittals

District office LAN Coordinators or AB 990 Coordinators will create two folders named **Received** and **Assigned** on the G:\ drive to save incoming email attachments from municipalities. The "Assigned" folder should have sub-folders named after each municipality that sends a submittal.

The AB 990 mailbox should be checked every workday by the district office AB 990 Coordinator or the designated backup for incoming emails from the municipalities. The attachment files will be initially saved in the "Received" folder and then imported to the Assignment Program. The password used by the municipality will be required to open the files and import them to the Assignment Program. The assignment process involves taking the following four steps for every record in the files:

1. Assigning the records to users in the district office. Depending on the workload of AB 990 requests in the district office, the AB 990 Coordinator may also be the assigned user.
2. Choosing and assigning the district office of control. The district office of control will be based on the business address provided for the record in the submittal. The district office of control will generally be the district office to which the submittal was sent.
3. Entering the date of knowledge. This date will be the date the submittal was received from the municipality.
4. Adding the records in the attachment files to a table in the AB 990 Database Program.

After all records in the files are assigned, they will be moved to the central database on the ACMS network server. To prevent the files in the "Received" folder from being reassigned, they should be moved to the "Assigned" folder, and placed in the subfolder named for the municipality. Subsequently, the End User Program will be used to retrieve and work the newly created assignments. Working the assignments will include investigative activity, issuance of determinations, and possibly registration or modification to registration information in IRIS.

E. Date of Knowledge and AB 990 Timelines

Incoming emails in the AB 990 mailbox generate an auto-reply to the sender. This initial reply serves as acknowledgement of receipt of the email. The acknowledgement establishes the date of knowledge for an AB 990 submittal from a participating municipality. The date of knowledge starts a 30-day timeline during which a determination will be made on the municipality's request and conveyed to the municipality. This usually involves determining whether a permit is required or whether the TAC of an existing account is correct. The 30-day period can be extended to 120 days for requests that require more information to make the determination. In such cases, the requesting municipality should still be notified within 30 days that more information is required to make the determination. For the purposes of local tax reallocation, the date of knowledge also determines the specific periods (tax quarters) subject to reallocation under RTC section 7209. The date of knowledge is valid if the information provided is sufficient to indicate the probability of improper allocation (see III. F., "Threshold Information"). If the request is rejected for insufficient information, and is later resubmitted by the municipality with sufficient information, the latter date (i.e., re-submittal date) will constitute the date of knowledge.

F. Threshold Information

AB 990 submittals from the municipalities requesting new registrations (no permit operations) and for changes to existing sellers' permits should contain the information shown in the respective tables below. Accounts or records with information missing from any mandatory field should be rejected. See section III.H. for information on rejecting records with insufficient information.

1. New Registrations

MANDATORY INFORMATION	OPTIONAL INFORMATION
Legal Owner Name	Business Type: (S) Sole Proprietor, (P) Partnership, (C) Corporation
DBA or "None" if not known	NAICS or SIC code applied
Starting date of business	FEIN
Business telephone number	
Owner's telephone number or "same" if applicable	
Business address (USPS format)	
Mailing address (USPS format)	
Description of business activity	
Description of product sold	
BOE mail-in registration packet provided: y/n	
Action request-see decision table following	

Submitted by:	
City or County name	
Contact person	
Email address	

2. Change to Existing Seller's Permit-Adding Sublocation, Change of Address, or TAC

MANDATORY INFORMATION	OPTIONAL INFORMATION
Legal Owner Name	Business Type: (S) Sole Proprietor, (P) Partnership, (C) Corporation
DBA or "None" if not known	NAICS or SIC code applied
Starting date of business	FEIN
Business telephone number	
Owner's telephone number or "same" if applicable	
Business address (USPS format)	
Mailing address (USPS format)	
Seller's permit number provided by licensee	
Action request-see decision table following	
Submitted by:	
City or County name	
Contact Person	
Email address	

G. AB 990 Action Request

The following choices appear on a pull down menu of the Input Program for the user in the municipality to make a selection to fill the mandatory **Action Request** field. The selection in this field will dictate the action required to be taken by the district office.

ACTION REQUEST DECISION TABLE:

NO PERMIT IDENTIFIED
NO SUBPERMIT IDENTIFIED
PERMIT MISALLOCATED TO STATE POOL
PERMIT MISALLOCATED TO COUNTY POOL
IN LIEU MISALLOCATED TO CITY
CITY MISALLOCATED TO IN LIEU
TEMPORARY VENDOR NO PERMIT IDENTIFIED

TEMPORARY VENDOR NO SUBNUMBER IDENTIFIED
INCORRECT TAC
PERMIT ADDRESS INCORRECT
PERMIT NAME INCORRECT
OTHER

H. Working Assignments and Issuing Determinations

The AB 990 assignments will be accessed by district office users through the End User Program of the AB 990 database. A determination will be issued for each assignment based on the municipality's action request (see section III. G., "AB 990 Action Request") and the result of district office investigation. The assigned district office user will verify the validity of the municipality's requests through a search of the Board's registration records and/or contact with clients to make the appropriate determination from the list below. This list is available in a pull-down menu of the End User Program.

1. **Permit is required** – The Board has determined that the business activity requires a permit, and a permit will be issued. This determination requires follow-up action and notification to the municipality.
2. **Permit is not required** - The Board has determined that either the business did not operate or the business activity does not require a seller's permit.
3. **Permit located** – The Board has located a permit for the entity at the address indicated by the municipality. The permit number should be entered in the comments column.
4. **Sublocation added** - In response to the municipality's notification of an unregistered sublocation, or a no permit operation, the Board has verified that an active permit exists, and has issued a permit for the sublocation.
5. **TAC changed** - The Board has determined that the TAC on the permit was coded to the wrong jurisdiction, or was otherwise incorrect, and it has been changed to reflect the correct registration.
6. **TAC is correct – Permit verified** - The Board has verified the permit for the entity, and has determined that the TAC is correct.
7. **Permit name or address is correct** - The Board has verified the name and address on the permit, and has determined that they are correct.
8. **Permit name/address corrected** - The Board has verified that the name and/or address on the permit were incorrect, and the correction has been made.

9. **Duplicate request** - The Board has determined that the submittal is a duplicate of one either being processed with a prior date of knowledge, or with the same date of knowledge.
10. **Rejected – insufficient information** - The Board has determined that there is not sufficient information provided by the municipality to make an informed decision. This determination will be used when information in any mandatory field of the municipality's submittal is missing or incomplete.

The assignment records will be marked complete after the determinations have been issued, and any necessary comments entered. The only assignments requiring additional work after the determinations are issued are the ones that require issuance of permits ("Permit is required"). See section III. J, K, and L regarding action requests for businesses without sellers permits, unregistered sublocations, and incorrect TACs, respectively.

I. AB 990 Reports

The determinations made by the Board are communicated to the municipalities by means of a **Completed Records Report**. The **Work in Process Report** is an interim report that captures the records on which determinations are pending because additional time and/or information are required. Both of these reports are generated through the End User program. Before sending these reports to the municipalities, copies will be saved on the G:\ drive in a folder titled **Outgoing Reports**. The reports will be saved as Microsoft Excel files and each file name will include the respective municipality name and the date the report was created. The reports are communicated to the municipalities by means of a password protected email attachment. To meet the requirements of RTC section 6066.3, these reports must be emailed to the municipalities no later than 30 days from the date of knowledge. Determinations should be made on the records in the Work in Process Report as soon as possible, and communicated no later than 120 days from the date of knowledge.

The **District Follow-Up Report** is used within the district office to work assignments that require follow up action after determinations have been issued. This report generates the list of assignments for which the determination "Permit is required" was issued.

J. Action Requests For Businesses Without Sellers Permits

In response to the municipalities' action requests regarding no permit operations, the following actions should be taken. Board registration records should be checked in IRIS to ascertain if the business has a valid permit issued by the Board. If an active permit for the entity at the specified address is found, the determination "Permit located" will be issued and the permit number should be entered in the "BOE Permit" field of the district actions worksheet in the End User Program.

If no record is found, phone contact should be made with the business, or a letter should be sent, inquiring about potential business operations to confirm that a permit is required. A seller's permit application should be mailed with the letter and, for tracking purposes "AB 990" should be stamped or handwritten and highlighted on top of the application. If phone calls and letters do not resolve the investigation, a field call will be made to determine if a permit is required.

If the investigation reveals that the business is engaged in an activity not requiring a seller's permit, the determination "Permit is not required" will be issued. This determination will also be issued when a closed out permit is found for the entity at the indicated location and the investigation reveals that the business did not operate, or is no longer operating.

If the investigation confirms that the business is operating and requires a permit, the determination "Permit is required" will be issued. Appropriate notes will be added to the assignment record and the record will be marked complete. A completed application for a seller's permit should be obtained and a permit issued as soon as possible. **During the registration process, account characteristic code 21 (AB 990 Account) will be added in IRIS to track the account for statistical purposes.** After the permit is issued, an email notification will be sent to the municipality. The email will reference the date of knowledge of the assignment and will include the permit number.

The process of issuing the permit and notification to the municipality should be completed no later than 120 days from the date the Board was informed of the no permit operation. If, in spite of district staff's repeated attempts to obtain compliance, a no permit operator failed to submit an application for a seller's permit, and therefore, a permit could not be issued within 120 days of receiving the information from the municipality, a criminal complaint (as allowed under RTC section 6071) should be pursued. The municipality should be informed via email that compliance activity is in progress. As soon as the permit is issued, an email notification including the permit number and the date of knowledge will be sent to the municipality. If a "Permit is required" determination is issued, and later investigation reveals that a permit is not required, the municipality should be notified.

Action Requests Regarding Unregistered Sublocations

Action requests from municipalities regarding unregistered sublocations should be validated by a search of registration records in IRIS. If the indicated sublocation is registered and is active, the determination “Permit located” will be issued. The permit number and the sublocation number will be entered in the assignment record and conveyed to the municipality.

If the sublocation is not registered in IRIS, phone contact should be made with the business, or a letter should be sent inquiring about potential business operations at the reported sublocation. If necessary, a field call should be made to determine if a permit is required. If the purported sublocation is not operating, the determination “Permit not required” will be issued.

If the sublocation has been verified as an active selling location, the district office user will add the sublocation in IRIS and mail a permit for the sublocation to the taxpayer’s mailing address. If necessary, special schedules for sales and use tax returns, such as BOE-530-B and/or BOE-530-C should also be mailed to the taxpayer. Comments will be added to the registration record in IRIS. The determination “Sublocation added” will be issued, and the permit number and the sublocation number will be entered in the “BOE Permit” field of the district actions worksheet in the End User Program. Notes will be added to the assignment record in the AB 990 database before marking it complete.

K. Action Requests Regarding Misallocated Permits and Incorrect TACs

Action requests from municipalities regarding misallocated permits and incorrect TACs should be validated by verifying the business address and the TAC in IRIS. If the taxpayer’s business address in IRIS is different from the business address indicated by the municipality, the taxpayer should be contacted to verify the correct address. If the business address and the TAC for that address are found to be correct, the determination “TAC is correct – permit verified” will be issued. The same determination will be issued if the business address is incorrect but the permit is correctly allocated. In such instances, the business address will be corrected in IRIS and a comment will be added in the assignment record to state that the business address has been changed.

If the business address is correct, but the TAC is incorrect or misallocated, or, if both the TAC and the business address are incorrect, the appropriate change will be made to the account in IRIS to reflect the correct TAC and/or the business address. In cases where a TAC can not be readily determined, (e.g. location is on a boundary line between two or more jurisdictions) the Local Revenue Allocation Unit should be contacted by email using the **+Area Codes** email address. The subject line should identify the email as an AB 990 request and the email should include the complete address for the location. After making TAC changes, comments will be entered in IRIS, and will include the date of knowledge and the name of the municipality that sent the action request. The determination “TAC changed” will be issued in the assignment record.

TAC changes that are backdated and take effect in a prior reporting period (retroactive TAC changes) may require reallocation of previously allocated local tax by the Allocation Group in the Audit Determination and Refund Section (ADRS). District staff will inform the Allocation Group of ADRS about TAC changes that require reallocation of local tax, but for which the reallocation cannot be completed automatically by the batch process in IRIS, or for which the Allocation Group supervisor's approval is required. District staff will therefore notify the supervisor of ADRS in the following instances of retroactive TAC changes:

- Changes made to TAC of consolidated accounts (SR S, SR Y, SR Z accounts).
- TAC changes made to single outlet accounts, when the date of knowledge is prior to the date the TAC was changed in IRIS, and the retroactive date of the TAC change occurs prior to the three quarterly periods preceding the quarter in which the change was made in IRIS.
- The local tax for any reporting period between the effective date of the retroactive TAC change and the date the TAC was actually changed in IRIS exceeds \$5,000.

In the above mentioned instances, an email should be sent to the supervisor of ADRS with a cc to the supervisor of the Allocation Group. The email should state the account number, the date of knowledge, and for accounts involving reallocations greater than \$5,000 for any given reporting period, should also state the amount to be reallocated.

L. AB 990 Coordinator Responsibilities

The duties of the district office AB 990 Coordinator will include the following:

Assistance to Municipalities:

1. Providing AB 990 Process CD to municipalities new to the program and assisting them with its installation.
2. Obtaining and maintaining information regarding AB 990 contact persons of participating municipalities, including adding or changing email addresses of such persons in the district AB 990 mailbox.
3. Notifying TSD Media Handling Unit of mailing addresses of newly added municipalities or requesting address changes by sending an email to **TSD-PFP**.
4. Setting passwords for AB 990 submittals in consultation with AB 990 contact persons of participating municipalities.
5. Resolving technical problems with incoming emails from municipalities.

Processing AB 990 Requests:

1. Opening and processing incoming emails in the AB 990 mailbox.
2. Distributing work assignments resulting from AB 990 requests from municipalities.
3. Ensuring that AB 990 determinations are made and reports sent to the municipalities within the mandated time limits.
4. Notifying municipalities of the issuance of permits.
5. Emailing local tax reallocation requests to supervisor of ADRS with a cc to the supervisor of Allocation Group.

M. District Assignments Follow Up

The District Principal Compliance Supervisor or designee will have access to the AB 990 Database Program and will periodically monitor the AB 990 process to ensure that the assignments are completed, changes to registration records in IRIS are made, permits are issued when required, and the reports and notifications to municipalities regarding permit issuance are sent in accordance with the mandated timelines and established procedures. They will also ensure that records of municipalities' submittals and copies of outgoing reports are maintained as specified in the preceding paragraphs.

IV. TSD PROCEDURES

The Media Handling Unit of TSD will maintain a mailing list of all municipalities participating in the AB 990 program. During the last week of each month, the Media Handling Unit will mail a copy of the current Statewide Registration CD to each participating municipality, all district offices, Fresno branch office, and requesting units in headquarters. The Statewide Registration CD contains the registration information for all currently active sellers' permits and for permits closed during the last three years. The mailing list will be updated every month in response to email requests from district offices and HQ units.

The TSD Service Desk will assist district office staff in resolving problems with the AB 990 mailbox and with incoming emails from the municipalities. The SUTD programmer assigned to the AB 990 Database will be responsible for resolving problems or issues related to the AB 990 Database Program.

V. ADRS ALLOCATION GROUP PROCEDURES

The Supervisor of the Audit Determination and Refund Section will ensure that emails from district staff regarding local tax reallocation are handled in a timely manner and the reallocation, if required, is done in accordance within the statutory time limits imposed by RTC section 7209. The AB 990 procedures for submitting information for local tax reallocation are in addition to, and separate from, any procedures established under Uniform Local Sales and Use Tax Regulation 1807. If inquiries regarding improper allocation of local tax, or reallocation requests, are received under both the AB 990 process and Regulation 1807, the date of knowledge and the processing of the request will be based on the earliest submission. Duplicate submissions will not be processed. Municipalities retain the right to appeal reallocation determinations made by

the Board under AB 990. Such appeals will be handled in accordance with the terms and procedures set forth in Regulation 1807(g)(2).

VI. OBSOLESCENCE

This Operations Memo will become obsolete when the information contained herein is incorporated into the appropriate manuals.

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Distribution: 1-D